

Food and Nutrition Service, USDA

§ 285.5

approved. The Commonwealth of Puerto Rico shall, for informational purposes, submit to FNS any amendments to those provisions of the plan of operation not specified in paragraph (b) of this section. Such submittal shall be made at least 30 days prior to the effective date of the amendment. If circumstances warrant a waiver of the 30-day requirement, the Commonwealth of Puerto Rico shall submit a waiver request to FNS for consideration. Should FNS determine that such an amendment relates to the provisions of paragraph (b) of this section, FNS approval as established above will be necessary for the amendment to be implemented.

(f) FNS may approve part of any plan of operation or amendment submitted by the Commonwealth of Puerto Rico contingent on appropriate action by the Commonwealth of Puerto Rico with respect to the problem areas in the plan of operation.

(g) If all or part of the plan of operation is disapproved, FNS shall notify the appropriate agency in the Commonwealth of Puerto Rico of the problem area(s) in the plan of operation and the actions necessary to secure approval.

(h) In accordance with the provisions of § 285.5, funds may be withheld or denied when all or part of a plan of operation is disapproved.

[Amdt. 209, 47 FR 32409, July 27, 1982, as amended by Amdt. 239, 48 FR 23805, May 27, 1983; Amdt. 243, 49 FR 49585, Dec. 21, 1984; Amdt. 274, 51 FR 18752, May 21, 1986; Amdt. 371, 61 FR 60012, Nov. 26, 1996]

§ 285.4 Audits.

(a) The Commonwealth of Puerto Rico shall provide an audit of expenditures in compliance with the requirements in part 3015 of this title at least once every two years. The findings of such audit shall be reported to FNS no later than 120 days from the end of each fiscal year in which the audit is made.

(b) Within 120 days of the end of each fiscal year, the Commonwealth of Puerto Rico shall provide FNS with a statement of: (1) Whether the grant funds received for that fiscal year exceeded the valid obligations made that year for which payment is authorized, and if so, by how much, and (2) such additional related information as FNS may require.

[Amdt. 209, 47 FR 32409, July 27, 1982. Redesignated by Amdt. 371, 61 FR 60013, Nov. 26, 1996]

§ 285.5 Failure to comply.

(a) Grant funds may be withheld in whole or in part, or denied if there is a substantial failure by the Commonwealth of Puerto Rico to comply with the requirements of § 285.4, or to bring into compliance a plan of operation disapproved by FNS, or to comply with program requirements detailed in the plan of operation approved for that fiscal year. (For example, funds shall be paid to the Commonwealth of Puerto Rico to cover only the costs of the part or parts of the plan of operation receiving FNS approval. Withheld payments shall be paid when the unapproved part(s) of the plan are modified and approved.) FNS shall notify the Commonwealth of Puerto Rico that further payments shall not be made until FNS is satisfied that there will no longer be any such failure to comply.

(b) Upon a finding of a substantial failure to comply with the requirements of § 285.4 or the plan of operation, FNS may, in addition to or in lieu of actions taken in accordance with paragraph (a) of this section, refer the matter to the Attorney General with a request that injunctive relief be sought from the appropriate district court of the United States to require compliance with these regulations by the Commonwealth of Puerto Rico.

[Amdt. 209, 47 FR 32409, July 27, 1982. Redesignated by Amdt. 371, 61 FR 60013, Nov. 26, 1996]